

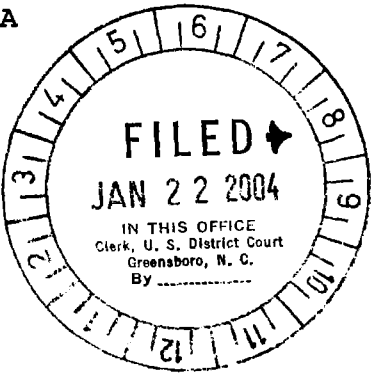
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CROWN CORK & SEAL COMPANY, INC. )  
and CLARK EQUIPMENT COMPANY, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CBS CORPORATION, et al., )  
 )  
Defendants. )  
----- )  
CBS CORPORATION, et al., )  
 )  
Third-Party Plaintiffs, )  
 )  
v. )  
 )  
INGERSOLL-RAND COMPANY, et al., )  
 )  
Third-Party Defendants. )

1:99CV00869



RECOMMENDATION NO. 23 OF UNITED STATES MAGISTRATE JUDGE

Plaintiffs have filed a motion to dismiss and bar all further claims, cross-claims and third-party claims against settling defendant American National Can Corporation ("American National"). (Docket No. 411) Defendant American National has filed a motion to dismiss the cross-claims or third-party claims by any party. (Docket no. 413) No party has filed an opposition to these motions. The basis for these motions is the same as was dealt with in Recommendation No. 3. This Recommendation was adopted by the Court and judgment was entered on January 9, 2001. (Docket Nos. 219 & 220) For the same reasons as were set out in Recommendation No. 3, it is recommended that plaintiffs' motion to dismiss as to this defendant and defendant American National's motion to dismiss

cross-claims and third-party claims by any party should be granted as well.

**IT IS THEREFORE RECOMMENDED** that plaintiffs' motion to dismiss defendant American National Can Corporation as a defendant from this lawsuit with prejudice, and further, that all cross-claims and third-party claims arising out of plaintiffs' claims for recovery of their RI/FS costs, RD/RA costs, or any other response costs against American National (docket no. 411) and as joined in by defendant American National Can Corporation (docket no. 413) be granted, and that the Court, in fact, dismiss all claims, including any cross-claim or third-party claim, against defendant American National with prejudice as a result of its settlement of plaintiffs' claims, and further, that the Court accept the Uniform Comparative Fault Act proportionate share rule for this case so that plaintiffs' contribution claims against the non-settling defendants will be reduced by the fair share of American National Can Corporation, and further, that a final, appealable judgment be entered concerning the dismissal of American National Can Corporation from this action, inasmuch as there is no just reason to delay the entry of a final, appealable judgment.

  
United States Magistrate Judge

January 22, 2004